

## Internal Revenue Service

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL:B02  
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Date:  
August 24, 2011

TY:

### Legend

Taxpayer =

Country A =

Country B =

Dear :

This is in response to a letter received in this office on January 31, 2011, in which a ruling is requested to permit Taxpayer to reelect the foreign earned income exclusion under section 911 of the Internal Revenue Code (the Code).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Taxpayer was employed in a job in Country A for tax years 2003 through 2009 and elected to exclude her foreign earned income under section 911(a) of the Code during tax year 2004. In 2005, Taxpayer determined that the foreign earned income exclusion under section 911(a) was not beneficial to her and she therefore filed a statement revoking her election of the foreign earned income exclusion, effective for tax year 2005.

In 2009, Taxpayer left her job in Country A and accepted a full-time position with a new employer in Country B. Taxpayer and her family moved from Country A to Country B. Taxpayer's income changed significantly as a result of her change in employment, and the applicable tax rate on her income in Country B will differ from the tax rate imposed

on her income in her prior position in Country A. Taxpayer requests permission to reelect the foreign earned income exclusion under section 911(a) of the Code for 2010 and subsequent taxable years.

Section 911 of the Code permits certain taxpayers to elect to exclude from gross income their foreign earned income and housing cost amounts. Under Treas. Reg. Section 1.911-7(a)(1), the election applies to the taxable year for which it is made and for all subsequent taxable years, unless revoked by the taxpayer. Treas. Reg. § 1.911-7(b)(1) prescribes a method by which a taxpayer may revoke an election to exclude foreign earned income, i.e., by filing a statement revoking any previously made elections. Section 911(e)(2) provides that once revoked, the election may not be made again by the taxpayer until the sixth taxable year after the year in which the revocation was made unless the Commissioner consents to the reelection.

Treas. Reg. § 1.911-7(b)(2) provides that if an individual revokes an election under Treas. Reg. § 1.911-7(b)(1), and desires to reelect the same exclusion within the next five years, the individual must obtain permission by requesting a ruling. The Service may permit the taxpayer to reelect the foreign earned income exclusion before the sixth year after considering any facts and circumstances that may be relevant to the determination. Treas. Reg. § 1.911-7(b)(2) provides that relevant facts and circumstances may include a period of United States residence, a move from one foreign country to another foreign country with differing tax rates, a substantial change in tax laws of the foreign country of residence or physical presence, and a change of employer.

Taxpayer filed a statement that revoked her foreign earned income exclusion in 2005. Taxpayer desires to reelect the exclusion for 2010, which is within five years of 2005. Therefore, Taxpayer is requesting permission to reelect the foreign earned income exclusion. Taxpayer has represented that she experienced a change of employer when she moved from Country A to Country B in 2009, and that Country A and Country B have differing tax rates.

Accordingly, based solely on the information and representations set forth above, it is held that Taxpayer may reelect the section 911 exclusion for 2008 and subsequent taxable years.

Except as otherwise expressly provided herein, no opinion is expressed as to whether Taxpayer otherwise satisfies the requirements of section 911 for excluding foreign earned income and housing cost amounts from gross income. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This private letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Jeffery G. Mitchell  
Chief, Branch 2  
Office of the Associate Chief Counsel  
(International)